PART IV

Section 1-A

CENTRAL BILLS AND REPORTS OF SELECT COMMITTEES THEREON

NOTIFICATION

LAW DEPARTMENT

No. LAW 34 LCA 65, Bangalore, dated 5th April 1965.

Ordered that the Report of the Joint Committee of the Houses of Parlaiment on the Press Council Bill, 1963 which has been published in the *Gazette of India*, Extraordinary, Part II, Section 2, dated the 17th February 1965 be republished in the *Mysore Gazette*, for general information.

By Order and in the name of the Governor of Mysore,

.....,

Under Secretary to Government,
Law Department.

RAJYA SABHA

New Delhi, 17th February, 1965/Magha 28, 1886.

The following Report of the Joint Committee of the Houses of Parliament on the Bill to establish a Press Council for the purpose of preserving the liberty of the Press and of maintaining and improving the standards of newspapers

in India, was presented to the Rajya Sabha on the 17th February, 1965 :—

COMPOSITION OF THE JOINT COMMITTEE

MEMBERS

RAJYA SABHA

1. Shrimati Violet Alva—*Chairman.*
2. Shri Arjun Arora
3. Shri K. Damodaran
4. Shri R. R. Diwakar
5. Shri U. S. Dikshit
6. Shrimati Indira Gandhi
7. Dr. Gopal Singh
8. Shri Akbar Ali Khan
9. Shri A. D. Mani
10. Shri Loknath Misra
11. Shri Shyam Nandan Mishra
12. Shri Narla Venkateswara Rao
13. Shri Mulka Govinda Reddy
14. Shri Bhawani Prasad Tiwary
15. Shri A. B. Vajpayee

LOK SABHA

16. Shri Peter Alvares
17. Shri C. K. Bhattacharyya
18. Shri N. C. Chatterjee
19. Shri Tridib Kumar Chaudhuri
20. Shri Yudhvir Singh Chaudhary
21. Shri C. Dass
22. Shri L. Elayaperumal
23. Shri Ansar Harvani
24. Shri T. D. Kamble
25. Shri Cherian J. Kappen

26. Sardar Kapur Singh
27. Shri M. K. Kumaran
28. Shri Nihar Ranjan Laskar
29. Shri Shiv Charan Mathur
30. Shri Mathura Prasad Mishra
31. Shrimati Sharda Mukerjee
32. Shri Mohan Nayak
33. Shri Man Sinh P. Patel
34. Shri Kishen Pattnayak
35. Shri Shivaram Rango Rane
36. Shri Sadhu Ram
37. Shri Sham Lal Saraf
38. Pandit K. C. Sharma
39. Shri Shashi Ranjan
40. Shri Vidya Charan Shukla
41. Dr. L. M. Singhvi
42. Shri Tula Ram
43. Shri S. Veerabasappa
44. Shri Virbhadra Singh
45. Shri C. R. Pattabhi Raman

REPRESENTATIVES OF THE MINISTERS

Ministry of Law

Shri G. R. Bal, *Joint Secretary and Draftsman.*

Ministry of Information and Broadcasting

Shri D. R. Khanna, *Secretary, Enquiry Committee of small Newspapers.*

Shri R. K. Govil, *Under Secretary.*

SECRETARIAT

Shri S. S. Bhalerao, *Joint Secretary.*

Shri M. A. Amladi, *Deputy Secretary.*

Shri I. N. Chari, *Under Secretary.*

Report of the Joint Committee

I, the Chairman of the Joint Committee to which the Bill* to establish a Press Council for the purpose of preserving the liberty of the Press and of maintaining and improving the standards of newspapers in India was referred, having been authorised to submit the Report on their behalf, present this their Report, with the Bill as amended by the Committee annexed thereto.

2. The Bill was introduced in the Rajya Sabha on the 26th November, 1963. The motion for reference of the Bill to a Joint Committee of the Houses was moved on the 8th September, 1964 by Shri A. B. Vajpayee and was adopted by the House on the 15th September, 1964.

3. The Lok Sabha discussed the motion on the 29th September, 1964 and concurred in it on the 30th September, 1964.

4. The message from the Lok Sabha was read out to the Rajya Sabha on the 1st October, 1964.

5. The Committee held 9 sittings in all.

6. At their first sitting held on the 3rd October, 1964, the Committee decided to hear evidence from organisations, institutions including newspaper advertising agencies and individuals desirous of presenting their suggestions or views before the Committee and to issue a press communique inviting memoranda for the purpose. The Committee also authorised its Chairman to decide, after examining the memoranda submitted by individuals, as to who should be called to give oral evidence before the Committee.

7. At their second sitting held on the 16th November, 1964, the Committee decided to extend the time for receipt of memoranda etc., up to the 15th December, 1964 and to issue a press communique to that effect.

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7. At their second sitting held on the 16th November, 1964, the Committee decided to extend the time for receipt of memoranda etc., up to the 15th December, 1964 and to issue a press communique to that effect.

8. Nine memoranda/representations on the Bill were received by the Committee from different organisations, institutions and individuals.

*Published in Part II, Section 2 of the Gazette of India Extraordinary, dated the 26th November, 1963.

9. At their third and fourth sittings held on the 20th and 21st January, 1965, the Committee heard evidence tendered by two organisations and one individual.

10. The Committee decided that the whole of the evidence tendered before it be laid on the Table of the House.

11. The report of the Committee was to be presented on the 16th November, 1964. The Committee was, however, granted an extension of time up to the 17th February, 1965.

12. The Committee considered the Bill clause by clause at their sittings held on the 22nd, 23rd and 25th January and the 13th February, 1965.

13. The Committee considered the Draft Report on the 15th February, 1965 and adopted it on the same date.

14. The principal changes suggested by the Committee in the Bill and the reasons therefor are set out in the succeeding paragraphs :

Clause 4

Sub-clause (3) : The Committee are of the opinion that persons having special knowledge or experience in the field of science should also find representation in the Council. The Committee have, therefore, added 'science' to the subjects specified in paragraph (c) of this sub-clause.

Sub-clause (4): The Committee feel that in making nominations to represent the interests mentioned in paragraph (a) or paragraph (b) of sub-clause (3) care should

be taken to see that chains or groups of newspapers do not get undue weightage in the Council. The Committee have accordingly amended sub-clause (4) by providing specifically that the Council should keep in view the consideration that no newspaper or chain or group of newspapers should have more than one representative in the Council.

Sub-clause (5).—The Committee are of the view that after the first formation of the Council, the power to notify associations of persons of the categories referred to in paragraphs (a) and (b) of sub-clause (3) should vest with the Council and not with Government. The sub-clause has been amended accordingly.

Clause 5

The Committe are of the opinion that a member of the Council should not hold office for more than six years in any case. Sub-clause (7) has been amended suitably to achieve this purpose.

Clause 6

The Committee hold the view that the Chairman of the Council should be a whole-time salaried officer and the reference to honorarium in this context is inappropriate. The Committee have, therefore, omitted the reference to honorarium in sub-clause (1).

Clause 12

The Committee feel that "freedom of the Press" is a more appropriate expression in view of the Constitutional safeguards as to right to freedom of expression. The word "freedom" has accordingly been substituted for the word "liberty" in this clause and wherever else it occurs in the Bill.

Sub-clause (2)—

Paragraphs (*b*), *and* (*d*) (*original*).—The Committee feel that the latter part of paragraph (b), *viz.* "and in

particular to prevent the use of any information obtained by journalists for purposes of blackmail" and the whole of paragraph (d) (original) are unnecessary and have accordingly deleted them. It is felt that paragraph (b) (as modified by the Committee) and paragraph (c) are adequate to meet the objects in view.

Paragraph (d) [*original paragraph* (e)] *and paragraph* (*e*) (*new*).—In the opinion of the Committee, any provision made in the Bill should take into consideration the likely effect it may have on the free flow of news between India and foreign countries. While the Committee feel that any arrangements that may be made for the reproduction of material obtained from foreign countries should not be specifically made the subject of review, they think that the Council should be empowered to review any assistance received by any newspaper or news agency in India from foreign sources. Paragraph (d) [original paragraph (e)] has, therefore, been modified and a new paragraph (e) added to achieve this purpose.

Paragraph (*g*).—The Committee are of the opinion that the Council should not be burdened with the functions of what may appear to be an employment agency. This paragraph has, therefore, been suitably amended.

Clause 13

Sub-clause (1).—The Committee consider that it should be made obligatory on the Council to record in writing the reasons for censuring a newspaper or an editor or a journalist under the powers given to it in this clause. The amendment made in this sub-clause seeks to achieve this purpose.

Original sub-clause (2).—The Committee feel that the provision sought to be made in this sub-clause might detract from what they consider should be the unquestioned authority of the Press Council to deal with the offending members of the journalistic profession and might even affect its independent character. In the Committee's view a censure

passed by the Press Council against an offending newspaper or editor or journalist should carry sufficient weight with the profession to have the desired effect on the future conduct of the offender. The Committee have, therefore, deleted this sub-clause.

New sub-clause (2).—The Committee feel that provision should also be made in the new sub-clause (2) to deal with complaints that may be made of interference with the freedom of the press by any person or authority including Government in the same manner as laid down in sub-clause (1) except that where such complaints are in respect of the alleged interference by Government, only the report of the inquiry shall be forwarded to Government. A new sub-clause has accordingly been inserted in this clause.

The other changes made by the Committee are of a consequential or verbal nature.

15. The Committee recommend that the Bill, as amended, be passed.

NEW DELHI,
February 15, 1965.

VIOLET ALVA,
Chairman of the
Joint Committee.

MINUTES OF DISSENT

I

I dissent from certain provisions of Clause 12 of the Bill, as amended and my dissension consists of objection to sub-clause (1) and opposition to paragraphs (b), (c) and (e) of sub-clause (2).

I agree that the object of the Press Council should be " to preserve the freedom of the Press " but I do not agree that it should assume normative and regulative powers " to maintain and improve the standards of newspapers in India ", as sub-clause (1) of Clause 12 of the Bill contemplates.

My objection arises out of a particular concept of " freedom " that I favour

There is a distinction between (1) freedom *from* and (2) freedom to. This is the distinction between (a) Negitive freedom, and (b) Positive freedom.

Negative freedom is the notion that, if I am prevented by other people from doing what I want, I am, to that extent, unfree. Freedom from arrest, freedom from restraint, or freedom from being coerced this way or that, is the traditional way of defining 'freedom', and it will be recalled that Lock, in his, *Essay on Liberty,* concieved of 'freedom' thiswise. Mill, while he admitted that there must be laws, held that laws infringed every man's freedom. These thinkers, therefore, tried to put in a corral, a range of human actions which were to be treated as sacred and untouchable, and in which each individual could gallop or amble, as he saw fit.

The advocates of Positive freedom adopt a different aproach. They ask, what prevents a man from being free? The laws, certainly. But was it not often man himself who restricted and shrivelled his own freedom? Man wants to

be free, but free to do what? To lead good life, to eliminate evil desires, to realise his own higher self. "What is freedom" asks Egmont in Goethe's tragedy: and Alva answers, "To do what is right". The true function of the laws, therefore, must be regulative and coercive. This idea permeates, from Plato's *Republic* and *The Laws* to the modren Marxists and Utopians, and the distinction between 'negative freedom' and 'positive freedom' constitutes the real conflict of modern times, between Liberalism and Communism. It is the basic argument of self-realisation that curtailment in the freedom of one and extension in that of another enables both to lead better lives.

In clause 12(1) of the Bill, two conflicting doctrines of 'freedom' are dangerously linked up by the nexus of an "and": the first upholds 'negative freedom", while the second, the 'positive freedom'.

Since, it is a postulate of the democratic way of life that what is correct is debatable, and that it being not already known absolutely, it must be investigated through a dialogue and not super-imposed by constituted or external authorities, it would, I conceive, be undemocratic to subject, by law, our free Press, to coercive powers of a statutory Council for 'maintaining and improving the standards of newspapers in India'. The freedom to maintain and improve their own standards should be left to the newspapers themselves through guaranteeing them the necessary negative freedoms, and the Press Council must not itself involved in the matter by treating it as lying in the domain of 'positive freedoms'.

My objection to paras (b) and (c) of sub-clause (2) of Clause 12 of the Bill springs from the same fundamental argument grounded in the superiority of 'negative freedoms' and undesirability of 'positive freedoms'. These paras aim at being normative and regulative and hence, are coercive in essence. The type of coercion which these provisions implicate is not conducive, in my opinion, to maintenance of a healthy state in our Press.

I cannot overstress the point that there is no middle ground on the fundamental question involved. You can either have a free Press, or a normative and regulative Press Council. Anyone who holds that the proper function of a State is to bring about the moral perfection of its citizens, is playing with very dangerous weapons. As it is, the tendency to play with such weapons has become dangerously evident in our body-politic in recent years. It has, therefore, to be reiterated that he who anchors his moral judgements in absolute truths, his conviction will lead him, if he is rigorous enough, to believe that he has the right and the duty to impose those absolutes upon others for their own good, as in Plato's *Republic* or the *Holy Inquisition*, or Calvin's *Geneva*, or Orwell's *Nineteen Eighty-four*.

I see a clear danger of the powers asumed under paras (b) and (c) of sub-clause (2) of clause 12 of this Bill, being employed in the direction indicated in detriment of the health and freedom of our Press.

I oppose the new paragraph (e) for different reasons.

Firstly, this paragraph contains the vague and blanket expresion, "any assistance received.....from foreign sources". This may include not only direct financial assistance but also reactions and information. The basic stuff with which the Press deals is events and human reactions, of public interest, and the basic function of the Press is to gather and communicate them to its readers. To place any restriction, however indirect, on the freedom of the Press to gather facts about events and human reactions from here or abroad constitutes a serious inroad into the freedom of the Press such as can lead to a controlled Press. Secondly, as long as we countenance foreign-based and foreign-oriented political parties in our country, how can we object to their Press being assisted, financially, or otherwise, from abroad ? Consistency may not be an absolute virtue for politicians but it is not beneath the contempt of a law-maker.

For these reasons, I am opposed to the last portion, that succeeds the word, " and ", of sub-clause (1) of Clause 12, and to the provisions contained in paragraphs (b), (c) and (e) of sub-clause (2) of Clause 12 of the Bill.

NEW DELHI ; KAPUR SINGH.

February 16, 1965.

II

The Press Council Bill which the Joint Select Committee has considered and which is due to be enacted after such modifications as Parliament may determine, will have far-reaching effects on the growth of the press not only in India but in South Asian countries which are awaiting the enactment of the law by Parliament. There are objections to certain clauses of the Bill which I shall set out in this minute. When the Press Commission considered the state of the press in India during the years 1951—54, one of the main recommendations was that the Chairman of the Council should be a person who has been a judge or is a judge of the High Court and should be nominated by the Chief Justice of India. Under Clause 4 (2) of the Bill as it stands after it has emerged from the Select Committee, the Chairman shall be a person nominated by the Chief Justice of India, since this Bill is in pursuance of the recommendations of the Press Commission, it is necessary that the precise recommendations of the Press Commission should be implemented in its provisions. As Clause 4(2) stands it is open to the Chief Justice to nominate a person, may be a Vice-Chancellor of the University, who is not a lawyer, as Chairman of the Press Council. It may be argued that the Chief Justice of India would take into consideration the recommendation of the Press Commission before making the nomination. When a Bill of this kind is going to be enacted into law it is essential that the intentions of Parliament should be made clear.

Under clause 14 of the Bill the enquiries of the Council should be held under the Code of Civil Procedure 1908. Witnesses who appear before the Council will be examined on oath, affidavits will be recorded and received and commissions for the examination of witnesses or documents may be issued. Under clause 14 of the Bill every enquiry held by the Council shall be deemed to be a judicial proceeding within the meaning of Section 193 and 228 of the Indian Penal Code.

When the obligation has been cast on the Council to conduct its enquiries in accordance with the Code of Civil Procedure, it necessarily follows that the presiding authority must be well versed in law. As the Bill does not contain any specific recommendation regarding the qualifications relating to the judicial experience of the Chairman of the Press Council it is open to objection on that ground. The witnesses who appeared before the Joint Select Committee were keen that the Chairman of the Press Council should be a person of judicial experience. It must be emphasised here that the moment the Press Council Bill is enacted into law it is the newspapermen who have to implement its provisions by assisting the Chairman. When the newspaper profession has demanded that the Chairman should be a person of judicial experience it is expected that due weight would be given to their opinion which has not found expression in Clause 4 (2) of the Bill as it stands at present.

Clause 14 of the Bill is open to serious objection on the ground that it has been opposed by the Federation of Working Journalists whose membership covers a substantial majority of journalists in the country. When the Press Commission reported in 1954 it had before it the case of Mr. Gunn, Editor of the Daily Sketch in London, who had altered the text of the contribution without the permission of the author and still published it over the author's name. The Press Council could not ensure the appearance of Mr. Gunn before it, when it was investigating the matter, and the Press Commission of India commented as follows :

> "The fact that the Press Council in the U.K. is a purely voluntary body has unduly handicapped it in its exercise of authority over the press."

> "We feel that a voluntary body of this nature .... may not have the necessary sanction behind its decision or legal authority to make enquires."

The consideration that seems to have weighed with the Press Commission was the need for legislation which would give the Press Council the authority to summon witnesses.

The Press Commission did not express any opinion about the exact procedure to be followed by the Press Council. In para 955 (c) of the Press Commission's Report, the Commission also said :

> " In other words, it shall not be for the Press Council to usurp the functions of a court of law nor is it intended that the Press Council in pronouncing on matters coming before them for consideration should follow the strict procedure of the Courts."

Under clause 14 of the Bill as it stands now, the enquiry is to be conducted in terms of the Code of Civil Procedure. It is one of the accepted ingredients of the principles of natural justice that the right to be represented by counsel is one which any party to a dispute can exercise if proceedings are to be conducted under the Code of Civil Procedure or the Code of Criminal Procedure. If the right to be represented by council is claimed by any party it cannot well be refused by the Press Council and if it is refused, the aggrieved party may seek redress through writ process. It will greatly hamper the Press Council if it gets involved in judicial proceedings and becomes a judicial tribunal.

Under clause 13 of the Bill, the decision of the Council in respect of any enquiry shall be final and shall not be questioned in any court of law. If a judicial procedure is gone through under clause 14 of the Bill, it is open to any party to raise the issue in an appeal on the ground of mistaken appraisal of evidence tendered before the Press Council and seek to agitate the matter in the form of an appeal or a writ petition. Both article 226 and article 136 of the Constitution may be cited as relevant in the case of an appeal. The object of the Press Commission was to see that all these disputes of unprofessional conduct or infractions of the Code of Journalistic Ethics were settled on the basis of a domestic Tribunal of newspapermen themselves. The introduction of the judicial process in such enquiries would defeat the purpose of the recommendation

of the Press Commission, namely, that the Press Council should not usurp the functions of a court of law. It may be argued that the enquires would be infructuous under clause 13 if the Council does not have the power of summoning witnesses and examining them on oath. For that argument the answer is available in the Commission of Enquiries Act. It is open to the Press Council to request Government to invest it with the powers of a Commission of Enquiry under the relevant Act which would give the power to summon and enforce the attendance of persons, cross-examining them on oath, secure statement of affidavits and require the production of documents of evidence.

The introduction therefore of clause 14 in the Bill is a serious departure from one of the principal recommendations of the Press Commission and from the evidence that is available it certainly does not command the support of the majority of the profession. The Bill is likely to defeat its very purpose if at the outset journalists are made to feel that they would be asked to go through a judicial process in the form of an enquiry before the Council without the paraphernalia of protection which the ordinary law of the land permits them in other cases.

In view of my objection to clause 14 of the Bill I am not in favour of clause 21 of the Bill because under that clause every member of the Council shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

While I am generally in favour of the new sub-clause (2) of clause 13, I have doubts about the propriety of the Council being vested with the power to censure individuals or authorities who are not connected with the press and who have been adjudged guilty of interfering with the freedom of the press. The Press Council after the Bill is placed on the statute book would be a domestic tribunal for journalists set up by journalists. One can understand journalists submitting to the censure of the Council; outsiders and other non-governmental authorities have

nothing to do with the setting up of the Press Council. They did not suggest that such a council should be set up or agree to abide by its findings. The Press Council will not therefore be a domestic tribunal for them. I am therefore of opinion that the Press Council should not have the power to censure them for any actions which may be regarded as interfering with the freedom of the Press. The Press Council should publish its findings on such interference by them. The findings may be in the nature of disapproval of their action. Such disapproval itself would have the effect of censure, without being formally described as censure. The object of the new sub-clause inserted in the Bill is to arouse public opinion against such interference and this object will be served if the findings of the Council are made public. This procedure should also apply to Governmental interference with the freedom of the press. Whether the Council should or should not forward its findings to Government need not be specifically mentioned in a sub-clause. It is a matter of detail which should be decided by the Press Council. It is obvious that when the Press Council arrives at findings on complaints, it would communicate them to the parties concerned. This is a matter of courtesy and need not be raised to the level of statutory recognition.

A. D. MANI.

NEW DELHI;

February 16, 1965.

III

प्रेस परिषद के गठन का मुख्य उद्देश्य प्रेस की स्वतंत्रता का संरक्षण तथा संवर्धन करना है। पत्र-स्वातंत्र्य को सबसे बड़ा संकट शासन से है। दमनकारी कानूनों द्वारा, सरकारी विज्ञापन के वितरण में भेदभाव तथा पक्षपात , अखबारी कागज के आयात और वितरण पर अनुचित नियंत्रण लगाकर और समाचार-पत्रों तथा संवाद समितियों के संवाददाताओं को मान्यता देने में मनमानी करके शासन सभाओं की स्वाधीनता को, बहुत कुछ अंशों में, पंगु बना सकता है।

भारत में समाचार-पत्रों को जो स्वाधीनता प्राप्त है, वह गर्व का विषय है। किन्तु ऐसे उदाहरणों की भी कमी नहीं है जिनमें सरकार के अनुचित और अनावश्यक हस्तक्षेप के कारण पत्र-स्वातंत्र्य को कुंठित होना पड़ा है।

संयुक्त प्रवर समिति द्वारा प्रस्तुत विधेयक में जहां इस बात की व्यवस्था की गई है कि समाचार-पत्र उद्योग आत्मानुशासन करे और प्रेस परिषद को यह अधिकार दिया गया है कि वह पत्रकारिता की नैतिकता का उल्लंघन करने वाले पत्रकारो की "निन्दा" कर सके; वहां पत्रों की स्वाधीनता में सरकारी हस्तक्षेप के विरुद्ध केवल प्रतिवेदन प्रस्तुत करने का प्रावधान किया गया है। आश्चर्य की बात तो यह है कि जिन व्यक्तियों अथवा संस्थाओं का समाचार-पत्र-उद्योग से सीधा संबंध नहीं है, उन्हें भी अवश्यकता पड़ने पर निन्दित करने का अधिकार परिषद को दिया गया है, किन्तु सरकार की निन्दा करने का अधिकार उसे नहीं दिया गया। अनुच्छेद 13(2) ख के अनुसार सरकारी हस्तक्षेप की शिकायत प्राप्त होने पर परिषद जांच करके अपना प्रतिवेदन सरकार को भेज देगी, शिकायत प्रमाणित होने की दशा में भी वह सरकार की आलोचना अथवा निन्दा नहीं कर सकेगी। यह स्थिति सर्वथा असमर्थनीय है। कोई भी प्रेस परिषद यदि वह शासन के हस्तक्षेप

विरुद्ध साहस तथा दृढ़ता के साथ नहीं खडी हो सकती, पत्रकारों का विश्वास तथा सम्मान प्राप्त नहीं कर सकेगी। सरकारी हस्तक्षेप की दशा में यदि परिषद हर बार प्रतिवेदन भेज कर ही चुप कर लेगी (और प्रतिवेदन भी उस सरकार को ही भेजा जायेगा जिसके विरुद्ध शिकायत है!) तो वह मखौल का विषय बन जायेगी। आवश्यक है कि प्रेस परिषद को सरकार की भी निन्दा करने का अधिकार दिया जाए जिससे सत्ताधीश अपने अधिकारों और मर्यादाओं के अतिक्रमण के विरुद्ध सदैव सचेत रहें और प्रत्यक्ष अथवा परोक्ष रूप में कोई ऐसा काम न करें जिससे पत्रों की स्वाधीनता का हनन हो।

नई दिल्ली।
17 फरवरी, 1965।

अटल बिहारी वाजपेयी
युद्धवीर सिंह।

IV

Though appending a minute of dissent to this "twice-born" piece of legislation, I do not wish to detract from the welcome that should be accorded to the autonomous professional body of the youth estate which this enactment seeks to establish.

The present Bill represents a somewhat belated cultivation of one of the major recommendations of the Press Commission, and reflects creditably on the intentions of the Government. At the same time one feels that the Bill has not emerged as an integrated piece of legislation and tends in some respects to be a collection of disparate compromises.

I do not know what justification there is for introducing the Chief Justice of India in the process of the composition of the Council. After all, the functions of the Chief Justice are defined in the Constitution and it is neither fair nor proper to cast on the exalted office a host of extra Constitutional duties and obligations, which may not only be onerous but also embarrassing. By not delimiting in detail the categories from the Chief Justice should exercise his powers of nomination under this enactment, the Chief Justice may well be confronted with a complex and dilemmatic administrative predicament.

The composition of the Council is based more on a cleavage of classes and interests than on a pluralistic and functional conception. The consequence may well be that the composition of the Council would suffer in strength and effectiveness. The expression "wholetime officer" apropos the Chairman is inept and inelegant; leaving the Chairman's Salary and emoluments to the unfettered discretion of the Central Government is inappropriate as well as inconsistent with the autonomy and the independence of the Council.

I feel that the power to censure third parties proposed to be conferred on the Press Council runs counter to its

supposed role as a professional body and may well interfere with the rights of citizens guaranteed by the Constitution and the law of the land. If it is argued that such a power is merely on the moral plane, the provision is rendered all the more redundant. As a matter of fact, however, the Council has powers of a Civil Court, while holding an inquiry and therefore would be a sort of a tribunal not only in respect of journalists but also in respect of private citizens. This, however, is incompatible with the stated objectives and purposes of the Bill, particularly because the Press Council is after all a professional body and not a court of law.

NEW DELHI,
February 17, 1965.

L. N. SINGHVI.

V

I have, with great respect to my colleagues, decided to dissent from their views in regard to the proposed new clauses 12 (2) (e) and 13 (2).

Clause 12(2)(*e*): The object of this clause, which is an addition to the functions of the Press Council, is that the Council should keep under review any assistance received by any newspaper or news agency in India from foreign sources. The inclusion of this function in the Press Council bill is likely to create an impression that the Indian Press is in receipt of a large scale assistance from foreign sources. The object under the proposed additions is broadly covered by the other functions of the Press Council mentioned in paras (a), (b) and (c) of sub-clause (2) of clause 12. There is another aspect of the question. What is the machinery that the Press Council will have for ascertaining information on facts relating to the alleged assistance from a foreign source received by an Indian newspaper or a news agency

Clause 13(2) : This is a new clause added by deleting the sub-clause (2) of clause (13) of the Bill. The new clause provides for an enquiry by the Press Council against alleged interference with the freedom of the Press by Government or any officer or authority under the control of Government or any person. In the case of interference by the Government or officer or authority under the control of the Government, the Council may forward the report of the enquiry to the Government and in other cases, the Council may censure the person or the authority concerned. I am not aware of any other legislation intended mainly to regulate a profession where provisions had been made for enquiries against Government. Broadly the Press Commission wanted the Press Council to look after the editorial independence, objectivity of news presentation and fairness of comments and the regulation of the conduct of the Press in the matter of such objectionable writings as are not legally punishable. In other words, the emphasis was

on the creation of a body to enforce a code of conduct which would enhance the prestige of the profession, to arbitrate on doubtful points and to censure any journalist or newspaper guilty of the infraction of the code. It would be open to Press Council to mention in their report cases in which they think that the interference with the Press has taken place at Government level.

The amendment also seeks to empower the Press Council to enquire into cases where interference with the Press is alleged by a person other than connected with a newspaper or a news agency or a Government and to censure where it is considered necessary. The inference is that the Press Council, which will be a professional body, would become a tribunal adjudicating on the conduct of persons other than journalists. This would seem to be outside the scope of the recommendation of the Press Commission as well as what was originally conceived in the Bill.

K. C. SHARMA.

NEW DELHI,

February 17, 1965.

Bill No. XXXVIII of 1963

THE PRESS COUNCIL BILL, 1963

[As Reported by the Joint Committee]

(Words side-lined or underlined indicate the amendments Suggested by the Committee; asterisks indicate omissions.)

A

BILL

to establish a Press Council for the purpose of preserving the freedom of the Press and of maintaining and improving the standards of newspapers in India.

Be it enacted by Parliament in the Sixteenth Year of the Republic of India as follows:—

CHAPTER I

Preliminary

1. *Short title and extent.*—(1) This Act may be called the Press Council Act, 1965.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(*a*) "Chairman" means the Chairman of the Council.

(*b*) "Council" means the Press Council of India established under section 3;

(*c*) "member" means a member of the Council and includes its Chairman;

(*d*) "prescribed" means prescribed by rules made under this Act;

(*e*) the expressions editor and "newspaper have the meanings respectively assigned to them in the Press and Registration of Books Act, 1867 (25 of 1867), and the expression "working journalist" has the meaning assigned to it in the Working Journalists (Conditions of Service) and Miscellaneous Provisions Act, 1955 (45 of 1955).

CHAPTER II

ESTABLISHMENT OF THE PRESS COUNCIL

3. *Incorporation of the Council.*—(1) *With effect from such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be established a Council by the name of the Press Council of India.*

(2) The said Council shall be a body corporate having perpetual succession and a common seal and shall by the said name sue and be sued.

4. *Composition of the Council.*—(1) The Council shall consist of a Chairman and twenty-five other members.

(2) The Chairman shall be a person nominated by the Chief Justice of India.

(3) The other members shall be chosen as follows:—

(*a*) thirteen members from among the working journalists, of whom not less than six shall be editors of newspapers who do not own or carry on the business of management of newspapers, so however that the number of editors of newspapers, published in Indian languages shall not be less than three;

(*b*) six members from among persons who own or carry on the business of management of newspapers ;

(*c*) three members from among persons having special knowledge or experience in the field of education, science, literature, law or culture ;

(*d*) three members, of whom two shall be from among the members of the House of the People and one from among the members of the Council of States.

(4) The two members to be chosen from among the members of the House of the People shall be nominated by the Speaker thereof and the one to be chosen from among the members of the Council of States shall be nominated by the Chairman thereof ; and save as aforesaid, all the other members referred to in sub-section (3) shall be nominated by a Committee consisting of the Chief Justice of India, the Chairman of the Council and a person to be appointed by the President of India, and in making any such nomination, the Committee shall have due regard to the consideration that not more than one person interested in any newspaper or any group of newspapers under the same control or management should be nominated to represent any of the categories referred to in clause (*a*) or clause (*b*) of that sub-section.

(5) Before making any nomination under clause (*a*) or clause (*b*) of sub-section (3), the Committee referred to in sub-section (4) shall, in the prescribed manner, invite panels of names from all such associations of persons of the categories referred to in the said clause (*a*) or clause (*b*) as may be notified in this behalf by the Council and in making any such nomination the Committee shall have due regard to the panels of names forwarded to it :

Provided that, until the Council is established, such associations shall be notified by the Central Government.

(6) Before making any nomination under clause (*c*) of sub-section (3), the Committee shall consult such associations or persons as it thinks fit.

(7) The names of persons nominated under this section shall be forwarded to the Central Government and shall be notified by that Government in the Official Gazette, and every appointment so made under this section shall take effect from the date on which it is so notified.

5. *Term of office and Retirement of members.*—(1) Save as otherwise provided in this section, the Chairman and other members shall hold office for a period of three years.

(2) Where a person chosen as a member under clause (*a*) or clause (*b*) of sub-section (3) of section 4 is censured under the provisions of sub-section (1) of section 13, he shall cease to be a member of the Council.

(3) The term of office of a member chosen under clause (*d*) of sub-section (3) of section 4 shall come to an end as soon as he ceases to be a member of the House from which he was chosen.

(4) The Chairman may resign his office by giving notice in writing to the Central Government and any other member may resign his office by giving notice in writing to the Chairman ; and upon such resignation being accepted by the Central Government or, as the case may be, the Chairman, he shall be deemed to have vacated his office.

(5) A casual vacancy arising under sub-section (2) or sub-section (3) or sub-section (4) or otherwise shall be filled by fresh appointment and a member so appointed shall hold office for the remaining period for which the member in whose place he is appointed would have held office.

(6) Every fresh appointment to fill a casual vacancy or a vacancy caused by the retirement of a member shall

be made from the same category of persons to which the member in whose place the appointment is to be made belonged, and every such appointment shall be made by the same authority by which and in the same manner in which, that member was appointed.

(7) A retiring member shall be eligible for re-appointment :

Provided that no member shall hold office for a period exceeding six years in the aggregate and on the expiry of such period he shall cease to be a member.

6. *Conditions of service of members.*—(1) *The Chairman shall be a whole-time officer and shall be paid such * * * salary as the Central Government may think fit; and the other members shall receive such allowances or fees for attending the meetings of the Council, as may be prescribed.*

(2) Subject to the provisions of sub-section (1), the conditions of service of members shall be such as may be prescribed.

(3) It is hereby declared that the office of a member of the Council shall not disqualify its holder for being chosen as, or for being, a member of either House of Parliament.

7. *Meetings of the Council.*—The Council shall meet at such times and places and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be provided by regulations made under this Act.

8. *Committee of the Council.*—For the purpose of performing its functions under this Act, the Council may constitute from amongst its members such committees for general or special purposes as it may deem necessary and every committee so constituted shall perform such functions as are assigned to it by the Council.

9. *Vacancies amongst members or defect in the constitution not to invalidate acts and proceedings of the Council.*—No act or proceeding of the Council shall be deemed to be invalid by reason merely of the existence of any vacancy in, or any defect in the constitution of, the Council.

10. *Staff of the Council.*—(1) *Subject to such rules as may be made by the Central Government in this behalf, the Council may appoint a Secretary and such other employees as it may think necessary for the efficient performance of its functions under this Act.*

(2) The terms and conditions of service of the employees shall be such as may be determined by regulations made with the prior approval of the Central Government.

11. *Authentication of orders and other instruments of the Council.*— All orders and decisions of the Council shall be authenticated by the signature of the Chairman or any other member authorised by the Council in this behalf and other instruments issued by the Council shall be authenticated by the signature of the Secretary or any other officer of the Council authorised in like manner in this behalf.

CHAPTER III

Powers and functions of the Council

12. *Objects and functions of the Council.*—(1) The object of the Council shall be to preserve the freedom of the Press and to maintain and improve the standards of newspapers in India.

(2) The Council may, in furtherance of its object, perform the following functions, namely :—

(*a*) to help newspapers to maintain their independence ;

(*b*) to build up a code of conduct for newspapers and journalists in accordance with * high professional standards ;

(*c*) to ensure on the part of newspapers and journalists the maintenance of high standards of public taste and foster a due sense of both the rights and responsibilities of citizenship ;

*

(*d*) to keep under review any development likely to restrict the supply and dissemination of news of public interest and importance ;

* *

(*e*) to keep under review any assistance received by any newspaper or news agency in India from foreign sources ;

(*f*) to promote the establishment of such common service for the supply and dissemination of news to newspapers as may, from time to time, appear to it to be desirable ;

(*g*) to provide facilities for the proper education and training of persons in the profession of journalism ;

* * *

(*h*) to promote a proper functional relationship among all classes of persons engaged in the production or publication of newspapers ;

(*i*) to study developments which may tend towards monopoly or concentration of ownership of newspapers, including a study of the ownership or financial structure of newspapers, and if necessary, to suggest remedies therefor ;

(*j*) to promote technical or other research ;

(*k*) to do such other acts as may be incidental or conducive to the discharge of the above functions.

13. *Power to censure.*—(1) Where, on receipt of a complaint made to it or otherwise, the Council has reason to believe that a newspaper has offended against the standards of journalistic ethics or public taste or that an editor or a working journalist has committed any professional misconduct or a breach of the code of journalistic ethics, the Council may, after giving the newspaper, the editor or journalist concerned an opportunity of being heard, hold an inquiry in such manner as may be provided by regulations made under this Act and, if it is satisfied that it is necessary so to do, it may, for reasons to be recorded in writing, censure the newspaper, the editor or journalist, as the case may be.

(2) Where, on receipt of a complaint made to it or otherwise, the Council has reason to believe that there has been any interference with the freedom of the Press by any person or authority, including any Government, the Council may, after giving the person or authority concerned an opportunity of being heard, hold an inquiry so far as may be in the manner referred to in sub-section (1) and,—

(*a*) in the case of any interference by the Government or any officer or authority under the control of the Government, the Council may forward the report of the inquiry to the Government ; and

(*b*) in any other case, if it is satisfied that it is necessary so to do, the Council may, for reasons to be recorded in writing, censure the person or authority.

(3) Nothing in sub-section (1) or sub-section (2) shall be deemed to empower the Council to hold an inquiry

into any matter in respect of which any proceeding is pending in a court of law.

(4) The decision of the Council under sub-section (1), shall be final and shall not be questioned in any court of law.

14. *General powers of the Council.*—(1) For the purpose of performing its functions under this Act, the Council may require the publisher of any newspaper to furnish to it information on such points or matters as it may deem necessary.

(2) While holding any inquiry under this Act, the Council shall have the same powers as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1908 (5 of 1908), in respect of the following matters, namely :—

(*a*) summoning and enforcing the attendance of persons and examining them on oath ;
(*b*) requiring the discovery and production of documents ;
(*c*) receiving evidence on affidavits ;
(*d*) issuing commissions for the examination of witnesses or documents.

(3) Every inquiry held by the Council shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code (45 of 1860).

15. *Payments to the Council.—The Central Government may, after due appropriation made by Parliament by law in this behalf, pay to the Council in each financial year such sums as may be considered necessary for the performance of the functions of the Council under this Act.*

16. *Fund of the Council.*—(1) The Council shall have its own Fund ; and all such sums as may, from time to time, be paid to it by the Central Government and all grants and advances made to it by any other authority or person, shall be credited to the Fund and all payments by the Council shall be made therefrom.

(2) All moneys belonging to the Fund shall be deposited in such banks or invested in such manner as may, subject of the approval of the Central Government, be decided by the Council.

(3) The Council may spend such sums as it thinks fit for performing its functions under this Act, and such sums shall be treated as expenditure payable out of the Fund of the Council.

17. *Budget.*—The Council shall prepare, in such form and at such time each year as may be prescribed, a budget in respect of the financial year next ensuing showing the estimated receipts and expenditure, and copies thereof shall be forwarded to the Central Government.

18. *Annual report.*—The Council shall prepare once every year, in such form and at such time as may be prescribed, an annual report giving a summary of its activities during the previous year, and giving an account of the standards of newspapers and factors affecting them, and copies thereof shall be forwarded to the Central Government and the Government shall cause the same to be laid before both Houses of Parliament.

19. *Accounts and audit.*—The accounts of the Council shall be maintained and audited in such manner as may, in consultation with the Comptroller and Auditor-General of India, be prescribed.

CHAPTER IV.

MISCELLANEOUS.

20. *Protection of action taken in good faith.*—(1) No suit or other legal proceeding shall lie against the Council or any member thereof or any person acting under the direction of the Council in respect of anything which is in good faith done or intended to be done under this Act.

(2) No suit other legal proceeding shall lie against any newspaper in respect of the publication of any matter therein under the authority of the Council.

21. *Members, etc., to be public servants.*—Every member of the Council and every officer or other employee appointed by the Council shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (45 of 1860).

22. *Power to make rules.*—(1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act :

Provided that when the Council has been established, no such rules shall be made without consulting the Council.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(*a*) the manner in which panels of names may be invited under sub-section (*5*) of section 4 ;

(*b*) the allowances or fees to be paid to the members of the Council for attending meetings of the Council, and other conditions of service of such members ;

(*c*) the appointment of the Secretary and other employees of the Council ;

(*d*) the form in which, and the time within which, the budget and annual report are to be prepared by the Council ;

(*e*) the manner in which the accounts of the Council are to be maintained and audited.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session in which it is so laid or the successive sessions

aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

23. *Power to make regulations.*—The Council may make regulations not inconsistent with this Act and the rules made thereunder, for—

(*a*) regulating the meetings of the Council and the procedure for conducting business thereat;

(*b*) specifying the terms and conditions of service of the employees appointed by the Council.

(*c*) regulating the manner of holding any inquiry under this Act:

Provided that the regulations made under caluse (b) shall be made with the prior approval of the Central Government.

B. N. BANERJEE,
Secretary.

Printed by the Director of Printing, Stty & Publications at the Govt. Press, Kohima